

HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 100

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

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SUBCHAPTER 1

OBJECTIVE

§16-100-1 Repealed [R 5/13/82]

§16-100-2 Objective. This chapter is intended to clarify and implement chapter 468E, Hawaii Revised Statutes, to the end that the provisions thereunder may be best effectuated and the public interest most effectively served. [Eff 1/16/76; am and ren §16-100-2, 6/25/81; am and comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

§16-100-3 Definitions. As used in this chapter:

"Bona fide practice" means the pursuit of the practice of speech pathology or audiology for a minimum of fifteen hours per week.

"Unprofessional conduct" means:

- (1) Violating or conspiring to violate, or aiding or abetting any person to violate any provision of chapter 468E, HRS; or
- (2) Violation of any part of subchapter 8.

"Written examination" means the National Examination in Speech Pathology or the National Examination in Audiology administered by the Educational Testing Service of Princeton, New Jersey. [Eff 1/16/76; am and ren §16-100-3, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; am and comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §§468E-3, 468E-10, 468E-11, 468E-13)

SUBCHAPTER 2

LICENSES

§16-100-4 Types of license. The board shall issue two kinds of licenses:

- (1) Speech pathologist; and

§16-100-4

(2) Audiologist.

A person may be licensed in both categories if the person meets the respective qualifications for each. Each license shall be maintained separately. [Eff 1/16/76; am and ren §16-100-4, 6/25/81; am and comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §§468E-8, 468E-12)

§16-100-5 Use of business name or trade name. Use of a fictitious name or "dba" by a speech pathologist or audiologist shall be registered with the board. [Eff 1/16/76; am and ren §16-100-5, 6/25/81; comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

§16-100-6 Display of license certificate. Evidence of licensure shall be displayed in the licensee's office of practice or filed with the licensee's employer. [Eff 1/16/76; am and ren §16-100-6, 6/25/81; comp 5/13/82; comp 2/16/85; am and comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

§16-100-7 Change of address. A licensee shall notify the board in writing of any change of address within thirty days of the change. [Eff 1/16/76; am and ren §16-100-7, 6/25/81; am and comp 5/13/82; comp 2/16/85; am and comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

SUBCHAPTER 3

EXEMPTION

§16-100-11 Persons not affected. A physician or surgeon licensed to practice medicine in this State, a licensed hearing aid dealer, or any person engaged in the profession or occupation for which the person is licensed in this State, is exempted from the requirements of chapter 468E, HRS, provided the person does not mislead the public by any title or offering any of the services as described under section 468E-3, HRS. [Eff 1/16/76; am and ren §16-100-11, 6/25/81; am and comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-4)

§16-100-12 Registration required. Any person who is not a resident of the State and not licensed under chapter 468E, HRS, and who meets the requirements for the performance of temporary services in speech pathology or audiology as described in section 468E-4(8), HRS, shall register that temporary service with the board, which shall be certified by the sponsoring licensee. [Eff 1/16/76; am and ren §16-100-12, 6/25/81; am and comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

§16-100-13 Persons deemed to be in compliance. All speech pathologists and audiologists employed by or under contract to a local government agency on or before October 1, 1981, shall:

- (1) Submit evidence of being employed by or under contract to a county or state government agency on or before October 1, 1981, and of continuous employment with that agency since that date and the employment shall be verified by the employing agency;
- (2) Remain in the specialty area (either speech pathology or audiology) and remain in county or state government employment without termination;
- (3) Provide information on forms provided by the board that those persons are deemed to be in compliance with the licensure requirements of chapter 468E, HRS, and pay an administrative fee to maintain those records; and
- (4) Biennially reconfirm continuing employment with a county or state government agency on forms provided by the board. The completed forms shall be verified by the employing agency and accompanied by an administrative fee every two years. [Eff and comp 2/16/85; am and comp 3/8/90; am and comp 6/1/93] (Auth: HRS §§468E-7, 26-9) (Imp: HRS §468E-8)

SUBCHAPTER 4

REQUIREMENTS FOR LICENSE

§16-100-16 General requirements. An application for license filed with the board shall be prepared in accordance with and contain all the information called for in the application form provided by the board. The board may request additional verification of an applicant's qualifications. Each application shall be

§16-100-16

accompanied by the application fee. [Eff 1/16/76; am and ren §16-100-16, 6/25/81; am and comp 5/13/82; comp 2/16/85; am and comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §§468E-5, 468E-9, 468E-12)

§16-100-17 Exhibit required. The applicant shall submit with the application a recent passport size photograph of the applicant. [Eff 1/16/76; am and ren §16-100-17, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §§468E-7, 468E-12)

§16-100-18 Repealed [R 3/8/90]

§16-100-19 Means of licensure. A person may be licensed as a speech pathologist or audiologist, or both, by any of the following means:

- (1) By examination as provided for in section 16-100-20;
- (2) By qualifying under the "actually engaged in the practice of speech pathology or audiology on the effective date of this chapter," provision in section 468E-11, HRS; or
- (3) By qualifying on the basis of the certificate of clinical competence awarded the person by the American Speech-Language-Hearing Association (ASHA). [Eff 1/16/76; am and ren §16-100-19, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; am and comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §§468E-8, 468E-9, 468E-11)

§16-100-20 Requirements for license by examination. (a) In addition to the requirements of sections 16-100-16 and 16-100-17, an applicant for license by examination shall comply with the requirements of this section.

(b) The applicant shall submit evidence of eligibility for meeting the requirements of the American Speech-Language-Hearing Association (ASHA) for a certificate of clinical competence in speech pathology, or audiology, or both. The evidence of eligibility shall verify that the applicant has completed:

- (1) A minimum of three hundred seventy-five hours of supervised clinical observation and clinical practicum with individuals who present a variety of communication disorders, which experience shall have been obtained within the applicant's training institution or in one of its cooperating programs; and
- (2) A clinical fellowship which shall have:

- (A) Begun after completion of academic coursework and clinical observation and clinical practicum;
 - (B) Consisted of at least thirty-six weeks of full-time professional experience or its part-time equivalent;
 - (C) Been completed under the supervision of an individual who holds the certificate of clinical competence in the area of practice for which the certificate is sought;
 - (D) Involved, primarily, clinical activities; and
 - (E) Required the supervisor to periodically conduct a formal evaluation of the applicant's progress in development of professional skills.
- (c) The applicant shall submit a photostatic copy of the applicant's certificate or diploma of master's degree or its equivalent in speech pathology or audiology. The equivalent of a master's degree is defined as a bachelor's degree from an accredited college or university and evidence of at least seventy-five semester hours of which:
- (1) At least twenty-seven semester hours shall be in basic science coursework which include:
 - (A) At least six semester hours in the biological or physical sciences, or both, and mathematics;
 - (B) At least six semester hours in the behavioral or social sciences, or both; and
 - (C) At least fifteen semester hours in the basic human communication processes, to include coursework in each of the following three areas of speech, language, and hearing:
 - (i) The anatomic and physiologic bases;
 - (ii) The physical and psychophysical bases; and
 - (iii) The linguistic and psycholinguistic aspects;
 - (2) For speech pathologist applicants, at least thirty-six semester hours in professional coursework which include:
 - (A) At least thirty semester hours in courses for which graduate credit was received, twenty-one of which shall be in the area of speech-language pathology;
 - (B) At least thirty semester hours in speech-language pathology, at least six of which shall be in speech disorders and at least six in language disorders;
 - (C) At least six semester hours in audiology, at least three of which shall be in hearing disorders and hearing evaluation

- and at least three in habilitative or rehabilitative procedures, or both, with individuals who have hearing impairment; and
 - (D) A maximum of six academic semester hours associated with clinical practicum may be counted toward the minimum of thirty-six semester hours of professional coursework, but those hours may not be used to satisfy the minimum of six semester hours in speech disorders, six semester hours in language disorders, or six semester hours in audiology; and
- (3) For audiologist applicants, at least thirty-six semester hours in professional coursework which include;
- (A) At least thirty semester hours in courses for which graduate credit was received, twenty-one of which shall be in the area of audiology;
 - (B) At least thirty semester hours in audiology, at least six of which shall be in hearing disorders and hearing evaluation and at least six in habilitative or rehabilitative procedures, or both, with individuals who have hearing impairment;
 - (C) At least six semester hours in speech-language pathology, at least three of which shall be in speech disorders and at least three in language disorders. This coursework in speech-language pathology shall concern the nature, prevention, evaluation and treatment of speech and language disorders not associated with hearing impairment; and
 - (D) A maximum of six academic semester hours associated with clinical practicum may be counted toward the minimum of thirty-six semester hours of professional coursework, but those hours may not be used to satisfy the minimum of six semester hours in hearing disorders and evaluation, six hours in habilitative or rehabilitative procedures, or both, or six hours in speech-language pathology.
- (d) The applicant shall submit three letters of recommendation from the applicant's supervisors or colleagues, or both, on the applicant's work experience or university training in speech pathology or audiology.
- (e) The applicant shall submit evidence of passing the written examination. [Eff 1/16/76; am and ren §16-100-20, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; comp 3/8/90; am and comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §§468E-5, 468E-9, 468E-10)

§16-100-21 Requirements for license for a person actually engaged in the practice of speech pathology or audiology on the effective date of chapter 468E, HRS. An applicant for license who on July 24, 1974, was actually engaged in the practice of speech pathology or audiology in this State may be licensed without taking the board's examination, provided the applicant meets the requirements under sections 16-100-16 and 16-100-17 and submits satisfactory evidence that on July 24, 1974, the applicant was actually engaged in that practice for a minimum of fifteen hours per week, or was on formal leave from employment in that practice, or was engaged in that practice at least nine of the previous fourteen months and was actively seeking re-employment.

June 30, 1984, shall be the last day for filing an application for a license under section 468E-11, HRS. [Eff 1/16/76; am and ren §16-100-21, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; am and comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-11)

§16-100-22 Requirements for license for a holder of the certificate of clinical competence awarded by the American Speech-Language-Hearing Association. In addition to meeting the requirements under sections 16-100-16 and 16-100-17, an applicant for licensure who holds a certificate of clinical competence issued by the American Speech-Language-Hearing Association shall submit a photostatic copy of the certificate. [Eff 1/16/76; am 12/9/78; am and ren §16-100-22, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §§468E-5, 468E-9)

§16-100-23 Repealed [R 3/8/90]

§16-100-23.1 Repealed [R 2/16/85]

§16-100-24 Demand for hearing. Any person whose application for license has been denied by the board shall be entitled to a hearing pursuant to chapter 91, HRS, provided that the demand for hearing is filed with the board within sixty days of the date of the letter informing the applicant of the denial. [Eff 1/16/76; am and ren §16-100-24, 6/25/81; am and comp 5/13/82; am and

§16-100-24

comp 2/16/85; am and comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

§16-100-25 Abandonment of application. An application shall be deemed to have been abandoned if all requirements, including filing of forms and payment of fees, have not been completed within one year from the date first filed. [Eff 1/16/76; am and ren §16-100-25, 6/25/81; am and comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-9)

SUBCHAPTER 5

EXAMINATIONS

§16-100-29 Registration for examination. (a) An applicant shall apply directly to Educational Testing Service (ETS) for a registration form for the written examination. Examination fees shall be paid directly to ETS.

(b) The applicant shall submit to the board a copy of the applicant's examination result showing the score and date of the examination taken. [Eff 1/16/76; am and ren §16-100-29, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §§468E-9, 468E-10)

§16-100-30 Repealed [R 5/13/82]

§16-100-31 Passing score. The passing score in each examination shall be six hundred. [Eff 1/16/76; am and ren §16-100-31, 6/25/81; comp 5/13/82; am and comp 2/16/85; am and comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-10)

§16-100-32 Reapplication for license by written examination. An applicant may take the written examination as often as the applicant wishes within a three-year period. If the written examination has not been passed within that time period, an extension shall be obtained from the board.

An applicant shall register for reexamination directly with ETS and pay to ETS the examination fee. [Eff 1/16/76; am and ren §16-100-32, 6/25/81; am and

comp 5/13/82; am and comp 2/16/85; comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-9)

§16-100-33 Repealed [R 5/13/82]

SUBCHAPTER 6

§16-100-37 Repealed [R 2/16/85]

§16-100-38 Repealed [R 2/16/85]

SUBCHAPTER 7

LICENSE RENEWAL

§16-100-42 Payment. (a) Licenses shall expire on December 31 of each odd-numbered year and shall be renewed biennially thereafter. Application for renewal shall be made on a form provided by the board and accompanied by the prescribed fee as provided by the department of commerce and consumer affairs in chapter 16-53.

(b) Renewal fees paid by mail shall be considered paid when due if the envelope transmitting the fee bears a postmark of December 31 or any prior date.

(c) A fee paid by check which is later returned by the bank for insufficient funds or other reasons shall be considered not paid on the date first remitted. [Eff 1/16/76; am and ren §16-100-42, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; am and comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §§468E-7, 468E-14, 468E-15)

§16-100-43 Failure to renew. If a licensee fails to renew a license within two years from the date of expiration the licensee shall submit an application for renewal with the appropriate fees and may be required to be reexamined by the board. [Eff 1/16/76; am and ren §16-100-43, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-14)

SUBCHAPTER 8

PROFESSIONAL MISCONDUCT

§16-100-47 Repealed [R 3/8/90]

§16-100-48 Misconduct in the practice. Disciplinary actions may be taken by the board for conduct that may result from but not necessarily be limited to:

- (1) Fraudulently or deceptively obtaining or using a license;
- (2) Altering a license;
- (3) Directly or indirectly employing any unlicensed person or any person whose license has been suspended, revoked, or expired;
- (4) Permitting another person to use the license of the licensee;
- (5) Using or promoting or causing the use of any misleading, deceiving, improbable or untruthful advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, title, or any other representation;
- (6) Falsely representing the use or availability of services or advice of a physician;
- (7) Discriminating by way of race, creed, or sex in either hiring of employees or treating clients;
- (8) Being professionally incompetent;
- (9) Committing fraud or deceit in the practice of speech-language pathology or audiology;
- (10) Providing professional services to a person while the speech pathologist or audiologist is using any narcotic or controlled dangerous substance or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (11) Prescribing devices, appliances, or products to a person so as to improperly or unnecessarily treat the person for financial gain;
- (12) Wilfully making or filing a false report or record in the practice of speech-language pathology or audiology;
- (13) Submitting a false statement to collect a fee;
- (14) Obtaining a fee through fraud or misrepresentation;
- (15) Being convicted of, or pleading guilty or nolo contendere to a felony or to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; and

- (16) Being disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section. [Eff and comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §§468E-7, 468E-13)

SUBCHAPTER 9

ORAL TESTIMONY

§16-100-52 Oral testimony. (a) The board shall accept oral testimony on any item which is on the board's agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony is requested to notify the board not later than forty-eight hours prior to the meeting, and at that time, to state the item on which testimony is to be presented;
- (2) Persons presenting oral testimony shall, at the beginning of the testimony, identify themselves and the organization, if any, that they represent;
- (3) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
- (4) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
- (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed; and
- (6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.

(b) Nothing in this section shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another proceeding pending subject to the hearings relief, declaratory relief, or rule relief provisions of the rules of administrative procedure.

(c) Nothing in this section shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make

presentations to the board on any particular matter on the board's agenda. [Eff and comp 3/8/90; am and comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §92-3)

SUBCHAPTER 10

GROUND FOR REFUSAL TO ISSUE LICENSE, REVOCATION, SUSPENSION, REFUSAL TO RENEW

§16-100-57 Grounds for refusal to issue license, revocation, suspension, refusal to renew. Failure of any licensee to comply with chapter 468E, HRS, or this chapter shall be grounds for the board to refuse to issue a license, suspend or revoke a license, fine a licensee, or refuse to renew a license. [Eff and comp 3/8/90; comp 6/1/93] (Auth: HRS §468E-7) (Imp: HRS §468E-13)

SUBCHAPTER 11

PRACTICE AND PROCEDURE

§16-100-62 Administrative practice and procedure. The rules of practice and procedure for speech pathologists and audiologists shall be as provided in chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs which are incorporated by reference and made a part of this chapter. [Eff and comp 3/8/90; comp 6/1/93] (Auth: HRS §§91-2, 468E-7) (Imp: HRS §§91-2, 468E-7)

Amendments to and compilation of Chapter 16-100, Hawaii Administrative Rules, on the Summary page dated March 5, 1993, were adopted on March 5, 1993, following public hearing held on March 5, 1993, after public notice was given in the Hawaii Tribune-Herald, West Hawaii Today, The Maui News, Kauai Times and Sunday Honolulu Star-Bulletin and Advertiser on January 31, 1993.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ Kathleen H. Campbell

KATHLEEN H. CAMPBELL, Chairperson
Board of Speech Pathology and Audiology

APPROVED AS TO FORM: Date 4/26/93

/s/ Diane Erickson

DIANE ERICKSON
Deputy Attorney General

APPROVED: Date 5/5/93

/s/ Clifford K. Higa

CLIFFORD K. HIGA, Director
Commerce and Consumer Affairs

APPROVED: Date 5/20/93

/s/ John D. Waihee

JOHN D. WAIHEE
GOVERNOR OF HAWAII

May 21, 1993

Filed

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-100
Hawaii Administrative Rules
March 5, 1993

SUMMARY

1. §16-100-20 is amended.
2. §§16-100-52 is amended.
3. §16-100 compiled.